

pleaded in any suit now filed or to be filed as limiting judicial review of any such decision to cases where fraud by such official or his said representative or board is alleged: *Provided, however*, That any such decision shall be final and conclusive unless the same is fraudulent¹ or capricious or arbitrary or so grossly erroneous as necessarily to imply bad faith, or is not supported by substantial evidence.

(May 11, 1954, ch. 199, § 1, 68 Stat. 81.)

AGENCY ACTIONS GENERALLY, JUDICIAL REVIEW

Judicial review of agency actions generally, see section 701 et seq. of Title 5, Government Organization and Employees.

§ 322. Contract provisions making decisions final on questions of law

No Government contract shall contain a provision making final on a question of law the decision of any administrative official, representative, or board.

(May 11, 1954, ch. 199, § 2, 68 Stat. 81.)

CHAPTER 6—SERVICE CONTRACT LABOR STANDARDS

Sec.	
351.	Required contract provisions; minimum wages.
352.	Violations.
353.	Law governing authority of Secretary.
354.	List of violators; prohibition of contract award to firms appearing on list; actions to recover underpayments; payment of sums recovered.
355.	Exclusion of fringe benefit payments in determining overtime pay.
356.	Exemptions.
357.	Definitions.
358.	Wage and fringe benefit determinations of Secretary.

§ 351. Required contract provisions; minimum wages

(a) Every contract (and any bid specification therefor) entered into by the United States or the District of Columbia in excess of \$2,500, except as provided in section 356 of this title, whether negotiated or advertised, the principal purpose of which is to furnish services in the United States through the use of service employees, shall contain the following:

(1) A provision specifying the minimum monetary wages to be paid the various classes of service employees in the performance of the contract or any subcontract thereunder, as determined by the Secretary, or his authorized representative, in accordance with prevailing rates for such employees in the locality, or, where a collective-bargaining agreement covers any such service employees, in accordance with the rates for such employees provided for in such agreement, including prospective wage increases provided for in such agreement as a result of arm's length negotiations. In no case shall such wages be lower than the minimum specified in subsection (b) of this section.

(2) A provision specifying the fringe benefits to be furnished in the various classes of serv-

ice employees, engaged in the performance of the contract or any subcontract thereunder, as determined by the Secretary or his authorized representative to be prevailing for such employees in the locality, or, where a collective-bargaining agreement covers any such service employees, to be provided for in such agreement, including prospective fringe benefits increases provided for in such agreement as a result of arm's-length negotiations. Such fringe benefits shall include medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing, unemployment benefits, life insurance, disability and sickness insurance, accident insurance, vacation and holiday pay, costs of apprenticeship or other similar programs and other bona fide fringe benefits not otherwise required by Federal, State, or local law to be provided by the contractor or subcontractor. The obligation under this subparagraph may be discharged by furnishing any equivalent combinations of fringe benefits or by making equivalent or differential payments in cash under rules and regulations established by the Secretary.

(3) A provision that no part of the services covered by this chapter will be performed in buildings or surroundings or under working conditions, provided by or under the control or supervision of the contractor or any subcontractor, which are unsanitary or hazardous or dangerous to the health or safety of service employees engaged to furnish the services.

(4) A provision that on the date a service employee commences work on a contract to which this chapter applies, the contractor or subcontractor will deliver to the employee a notice of the compensation required under paragraphs (1) and (2) of this subsection, on a form prepared by the Federal agency, or will post a notice of the required compensation in a prominent place at the worksite.

(5) A statement of the rates that would be paid by the Federal agency to the various classes of service employees if section 5341 or section 5332 of title 5 were applicable to them. The Secretary shall give due consideration to such rates in making the wage and fringe benefit determinations specified in this section.

(b)(1) No contractor who enters into any contract with the Federal Government the principal purpose of which is to furnish services through the use of service employees and no subcontractor thereunder shall pay any of his employees engaged in performing work on such contracts less than the minimum wage specified under section 206(a)(1) of title 29.

(2) The provisions of sections 352 to 354 of this title shall be applicable to violations of this subsection.

(Pub. L. 89-286, § 2, Oct. 22, 1965, 79 Stat. 1034; Pub. L. 92-473, §§ 1, 2, Oct. 9, 1972, 86 Stat. 789; Pub. L. 94-489, §§ 1, 2, Oct. 13, 1976, 90 Stat. 2358.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-489, § 1(a), struck out “as defined herein” after “use of service employees”.

Subsec. (a)(5). Pub. L. 94-489, § 2, inserted “or section 5332” after “section 5341”.

¹ So in original. Probably should be “fraudulent”.